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EXAMINER	
FRISBY, KESHA	
ART UNIT	PAPER NUMBER
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/713,676	WASOWICZ ET AL.	
	Examiner	Art Unit	
	Kesha Frisby	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *95-111,113-205,207-253,255-300 and 302-331* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *95-111,113-205,207-253,255-300 and 302-331* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

After the Amendment filed on 11/14/2003, claims 95-111, 113-205, 207-253, 255-300 & 302-331 are pending in this application.

Information Disclosure Statement

The examiner notes that several Non-Patent Literature documents have been filed in this application. However, there is no IDS of record, which compile with the requirements of 37 CFR 1.97. Should the applicant wish to have the references considered and printed on the face of any patent which may issue from this application a proper IDS must be filed.

Specification

Please update the status of application numbers 09/350,791 & 09/912,681 on the first page of the specification.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In *re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 95-108, 110, 111, 189-202, 204 & 205 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 & 7-16 of U.S. Patent No. 6,299,452 in view of Jenkins et al. (U.S. Patent Number 6,331,115).

Application claim 95 correlates to patent claim 1: Although the conflicting claims are not identical, they are not patentably distinct from each other because *U.S. Patent Number 6,299,452 includes wherein the server computer further comprises a recommender for recommending, based on the scores of the one or more tests, one or more training modules for improving a reading or pre-reading skill of the individual as indicated by the score of the tests.* As a result, the examiner uses rationale reasoned from legal precedent that an omission of an element with the consequent loss of its function is deemed obvious. See In re Kuhle, 188 U.S.P.Q.7.

Application claim 96 correlates to patent claim 1: Although the conflicting claims are not identical, they are not patentably distinct from each other because *U.S. Patent Number 6,299,452 does not disclose means for motivating the user to complete the tests.* However, Jenkins et al. teaches means for motivating the user to complete the tests (column 9 lines 21-28 & lines 43-45 & column 10 lines 44-60). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to include motivating the user, as disclosed by Jenkins et al., incorporated into U.S. Patent Number 6,299,452 in order to given the user to earn points, reward game play and provide an entertaining arcade environment.

Application claims 100 & 194 correlate to patent claim 5: Although the conflicting claims are not identical, they are not patentably distinct from each other because *U.S. Patent Number 6,299,452 includes a fluent reader test for testing the ability to read fluently.* As a result, the examiner uses rationale reasoned from legal precedent that an omission of an element with the consequent loss of its function is deemed obvious. See In re Kuhle, 188 U.S.P.Q.7.

Application claim 97 correlates to patent claim 2, application claim 98 correlates to patent claim 3, application claim 99 correlates to patent claim 4, application claim 101 correlates to patent claim 7, application claim 102 correlates to patent claim 8, application claim 103 correlates to patent claim 9, application claim 104 correlates to patent claim 10, application claim 105 correlates to patent claim 11, application claim 106 correlates to patent claim 12, application claim 107 correlates to patent claim 13, application claim 108 correlates to patent claim 14, application claim 110 correlates to patent claim 15, application claim 111 correlates to patent claim 16, application claim 189 correlates to patent claim 1, application claim 191 correlates to patent claim 2, application claim 192 correlates to patent claim 3, application claim 193 correlates to patent claim 4, application claim 195 correlates to patent claim 7, application claim 196 correlates to patent claim 8, application claim 197 correlates to patent claim 9,

application claim 198 correlates to patent claim 10, application claim 199 correlates to patent claim 11, application claim 200 correlates to patent claim 12, application claim 201 correlates to patent claim 13, application claim 202 correlates to patent claim 14, application claim 204 correlates to patent claim 15 and application claim 205 correlates to patent claim 16.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 189, 193, 195-198, 200, 202, 207, 208, 210-216, 220-226, 228, 241, 246, 248, 250, 255, 256, 258-264, 268-274, 276, 284, 288, 290-293, 295, 297, 302, 303, 305-311, 315-321, 323 are rejected under 35 U.S.C. 102(b) as being anticipated by Corder (US 5,692,906).

[Claims 189, 202, 250, 284 & 297]: Regarding Claims 189, 202, 237, 250, 284 & 297, Corder discloses a server computer (teacher's computer) comprising one or more tests for determining deficiencies in one or more reading and pre-reading skills (column 11 lines 59-63), a scorer for determining a score for each test (Col. 3:42-53, Col.6: 14-17, 32, Col.7: 51-52, Col.12: 18-25 and Col.13: 32-41); and one or more client computers (student's workstation) that establish a communications session with the server computer to download the one or more tests from the server computer (Fig. 2(c) and the associated text) each client computer (student's workstation) comprising means for

displaying at least one of a graphical image and audio associated with each test located on the server (FIG. 2(b) and Col.3: 25-28), means for receiving a user response (e.g., voice recording device) to one of the graphical images and audio presented by each test, means for communicating the response for each test back to the server computer (FIGS 2(b)-2(c) and Col.3: 28-30) and a recommender (i.e., preliminary evaluator, prescribe module) for recommending, based on the scores (i.e., performance(s)) of the one or more tests, one or more training modules for improving a reading or pre-reading skill of the individual as indicated by the score of the tests. See Col.8: 45-51 and Col.16: 24-42.

[Claim 193, 241 & 288]: Regarding Claims 193, 241 & 288, Corder discloses wherein the user input device of the one or more client computers comprise a speech recognition device for receiving a verbal response from the user to the one or more tests. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG 2(a), component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

[Claims 195, 243 & 290]: Regarding Claims 195, 243 & 290, Corder discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words. See Col.13: 64. Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses a rhyme recognition test (i.e., recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e., to

determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention form the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 196, 244 & 291]: Regarding Claims 196, 244 & 291, Corder discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e., beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus. See Col.14: 1.

[Claims 197, 245 & 292]: Regarding Claims 197, 245 & 292, Corder discloses wherein the tests further comprise a test for recognizing the ending sound of a stimulus, the test comprising a means for generating at least one stimulus having at least an ending phoneme (i.e., ending sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

[Claims 198, 246 & 293]: Regarding Claims 198, 246 & 293, Corder discloses wherein the one or more tests comprise a rhyme recognition generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound that rhymes with the stimulus (i.e., using rhyming words to complete sentences). See Col.14: 4.

[Claims 200, 248 & 295]: Regarding Claims 200, 248 & 295, Corder discloses wherein the tests further comprises a sound segmentation test (i.e., identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14: 5. A recitation of the intended use of the claimed invention (i.e., in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 207, 255 & 302]: Regarding Claims 207, 255 & 302, Corder discloses wherein the motivation means further comprises means for generating a graphical image and an associated sound to motivate the user to complete the tests. See Col.14: 45-48.

[Claims 208, 256 & 303]: Regarding Claims 208, 256 & 303, Corder discloses wherein the motivation means further comprises means for generating the graphical image and associated sound after a first predetermined number of tests are completed and means for generating another graphical image and associated sound after a second predetermined number of test are completed. See Col.14: 19-26.

[Claims 210, 258 & 305]: Regarding Claims 210, 258 & 305, the motivation means in Corder, as modified by Jenkins et al., is capable of comprising means for generating the graphical image and associated sound after a third predetermined number of tests. See Col.14: 19-26.

[Claims 211, 259 & 306]: Regarding Claims 211, 259 & 306, Corder discloses wherein the recommender further comprises means for downloading (i.e., network) the recommended training module to the client computer. See FIG 2(c).

[Claims 212, 260 & 307]: Regarding Claims 212, 260 & 307, Corder discloses wherein the recommender further comprises means for storing (i.e., storage means) the incorrect responses to the one or more test and means (i.e., preliminary evaluation) for generating a training module recommendation based on the incorrect responses. See Col.3: 28-30 and Col.8: 47-51.

[Claims 213, 214, 261, 262, 308 & 309]: Regarding Claims 213, 214, 261, 262, 308 & 309, Corder discloses wherein the recommender further comprises means for comparing each incorrect response (i.e., number of unsuccessful tries) to one or more error measures (inherent) to identify an error (e.g., deficiency in identifying certain sound/object pairs) associated with each incorrect response and means for generating a training module recommendation based on the identified error and wherein the comparing means further comprises means for identifying one or more errors for each incorrect response (i.e., analyze module). See Col.16: 63-Col.16: 3, 24-42.

[Claims 215, 263 & 310]: Regarding Claims 215, 263 & 310, Corder discloses wherein the recommender further comprises means for identifying a deficient skill by comparing the identified error to a deficient skill rule (inherent) and means for generating a training module recommendation based on the identified deficient skill (i.e., prescribe module). See Col.16: 24-36.

[Claims 216, 264 & 311]: Regarding Claims 216, 264 & 311, Corder discloses wherein the server (teacher's workstation) further comprises means for dynamically generating one or more data reports that illustrate the data associated with the one or more tests (e.g., recording the student's responses to the stimuli through the input means to the storage means of the computer). See Col.3: 29-30 and Col.8: 21-28.

[Claims 220, 268 & 315]: Regarding Claims 220, 268 & 315, Corder discloses wherein the data report generator further comprises a user interface (e.g., a copy of the test screen) for browsing other test data for a user. See Col.12: 36-42.

[Claims 221, 269 & 316]: Regarding Claims 221, 269 & 316, Corder discloses wherein the data report generator further comprises means (e.g., a bar chart) for determining the number of user test results shown. See Col.12: 36-42.

[Claims 222, 270 & 317]: Regarding Claims 222, 270 & 317, Corder discloses wherein the data report generator further comprises means (i.e., LaserWriter IINT Printer) for permitting the user to select a data report print format (e.g., bar chart). See Col.12: 36-42 and FIG. 2(c).

[Claims 223, 271, 318]: Regarding Claim 223, Corder discloses wherein the data report generator further comprises means for permitting the user to select a data report display format (e.g., bar chart). This would have been an inherent feature of Corder's invention. See Col.12: 36-42.

[Claims 224, 272 & 319]: Regarding Claims 224, 272 & 319, Corder discloses wherein the data report generator further comprises means for generating a data report (i.e., student's performance) for one or more students in a class, means (e.g., analyze

module) for generating a data report for one or more classes each having one or more students and means for generating a data report for a school having one or more classes. See Col.8: 21-27 and Col.16: 36-42.

[Claims 225, 273 & 320]: Regarding Claims 225, 273 & 320, Corder discloses wherein the client computer (student workstation) further comprises a teacher station (teacher workstation) that downloads the tests from the server and one or more student computers connected to the teacher station by a network (Fig. 2(c) associated text), each student computer further comprising means for displaying at least one of a graphical image and audio associated with each test located on the server (Fig. 2(b) & column 3 lines 25-28), means for receiving a user response (e.g. voice recording device) to one of the graphical images and audio presented by each test and means for communicating the responses for each test back to the teacher station (Figs. 2(b)-2(c) & Col. 3:28-30).

[Claims 226, 274 & 321]: Regarding Claims 226, 274 & 321, Corder discloses wherein the teacher station further comprises means for communicating the response for each test for each student back to the server computer (Figs. 2(b)-2(c) & Col. 3:28-30).

[Claims 228, 276 & 323]: Regarding Claims 228, 276 & 323, Corder discloses wherein each student computer further comprises means for connecting to the server computer and means for downloading the resources necessary to execute the current test when the test is started (i.e., AppleTalk or Other Network). See FIG. 2(c).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 95, 96, 99, 101-104, 106, 108, 113, 114, 116-122, 126-132, 134, 142, 143, 146, 148-151, 153, 155, 160, 161, 163-169, 173-179, 181, 190, 238 & 285 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder (US 5,692,906) in view of Jenkins et al. (US 6,331,115).

[Claims 95, 108, 142 & 155]: Regarding Claims 95, 108, 142 & 155, Corder discloses a server computer (teacher's computer) comprising one or more tests for determining deficiencies in one or more reading and pre-reading skills (column 11 lines 59-63), a scorer for determining a score for each test (Col. 3:42-53, Col.6: 14-17, 32, Col.7: 51-52, Col.12: 18-25 and Col.13: 32-41); and one or more client computers (student's workstation) that establish a communications session with the server computer to download the one or more tests from the server computer (Fig. 2(c) and the associated text) each client computer (student's workstation) comprising means for displaying at least one of a graphical image and audio associated with each test located on the server (FIG. 2(b) and Col.3: 25-28), means for receiving a user response (e.g., voice recording device) to one of the graphical images and audio presented by each test, means for communicating the response for each test back to the server computer (FIGS 2(b)-2(c) and Col.3: 28-30). *Corder does not disclose means for motivating the user to*

complete the tests and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme). However, Jenkins et al. teaches means for motivating the user to complete the tests (column 9 lines 21-28 & lines 43-45 & column 10 lines 44-60) and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme) (Col.3: 31-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include motivating the user, as disclosed by Jenkins et al., incorporated into Corder in order to given the user to earn points, reward game play and provide an entertaining arcade environment.

[Claims 96 & 143]: Regarding Claims 96 & 143, Corder, as modified by Jenkins et al., discloses wherein the station further comprises a recommender (i.e., preliminary evaluator, prescribe module) for recommending, based on the scores (i.e., performance(s)) of the one or more tests, one or more training modules for improving a reading or pre-reading skill of the individual as indicated by the score of the tests. See Col.8: 45-51 and Col.16: 24-42.

[Claims 99 & 146]: Regarding Claims 99 & 146, Corder, as modified by Jenkins et al., discloses wherein the user input device of the one or more client computers comprise a speech recognition device for receiving a verbal response from the user to the one or

more tests. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG 2(a), component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

[Claims 101 & 148]: Regarding Claims 101 & 148, Corder, as modified by Jenkins et al., discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words. See Col.13: 64. Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses a rhyme recognition test (i.e., recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e., to determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention form the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 102 & 149]: Regarding Claims 102 & 149, Corder, as modified by Jenkins et al., discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e., beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus. See Col.14: 1.

[Claims 103 & 150]: Regarding Claims 103 & 150, Corder, as modified by Jenkins et al., discloses wherein the tests further comprise a test for recognizing the ending sound of a

stimulus, the test comprising a means for generating at least one stimulus having at least an ending phoneme (i.e., ending sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

[Claims 104 & 151]: Regarding Claims 104 & 151, Corder, as modified by Jenkins et al., discloses wherein the one or more tests comprise a rhyme recognition generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound that rhymes with the stimulus (i.e., using rhyming words to complete sentences). See Col.14: 4.

[Claims 106 & 153]: Regarding Claims 106 & 153, Corder, as modified by Jenkins et al., discloses wherein the tests further comprises a sound segmentation test (i.e., identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14: 5. A recitation of the intended use of the claimed invention (i.e., in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 113 & 160]: Regarding Claims 113 & 160, Corder, as modified by Jenkins et al., discloses wherein the motivation means further comprises means for generating a

graphical image and an associated sound to motivate the user to complete the tests. See Col.14: 45-48.

[Claims 114 & 161]: Regarding Claims 114 & 161, Corder, as modified by Jenkins et al., discloses wherein the motivation means further comprises means for generating the graphical image and associated sound after a first predetermined number of tests are completed and means for generating another graphical image and associated sound after a second predetermined number of test are completed. See Col.14: 19-26.

[Claims 116 & 163]: Regarding Claims 116 & 163, the motivation means in Corder, as modified by Jenkins et al., is capable of comprising means for generating the graphical image and associated sound after a third predetermined number of tests. See Col.14: 19-26.

[Claims 117 & 164]: Regarding Claims 117 & 164, Corder, as modified by Jenkins et al., discloses wherein the recommender further comprises means for downloading (i.e., network) the recommended training module to the client computer. See FIG 2(c).

[Claims 118 & 165]: Regarding Claims 118 & 165, Corder, as modified by Jenkins et al., discloses wherein the recommender further comprises means for storing (i.e., storage means) the incorrect responses to the one or more test and means (i.e., preliminary evaluation) for generating a training module recommendation based on the incorrect responses. See Col.3: 28-30 and Col.8: 47-51.

[Claims 119, 120, 166 & 167]: Regarding Claims 119, 120, 166 & 167, Corder, as modified by Jenkins et al., discloses wherein the recommender further comprises means for comparing each incorrect response (i.e., number of unsuccessful tries) to one

or more error measures (inherent) to identify an error (e.g., deficiency in identifying certain sound/object pairs) associated with each incorrect response and means for generating a training module recommendation based on the identified error and wherein the comparing means further comprises means for identifying one or more errors for each incorrect response (i.e., analyze module). See Col.16: 63-Col.16: 3, 24-42.

[Claims 121 & 168]: Regarding Claims 121 & 168, Corder, as modified by Jenkins et al., discloses wherein the recommender further comprises means for identifying a deficient skill by comparing the identified error to a deficient skill rule (inherent) and means for generating a training module recommendation based on the identified deficient skill (i.e., prescribe module). See Col.16: 24-36.

[Claims 122 & 169]: Regarding Claims 122 & 169, Corder, as modified by Jenkins et al., discloses wherein the server (teacher's workstation) further comprises means for dynamically generating one or more data reports that illustrate the data associated with the one or more tests (e.g., recording the student's responses to the stimuli through the input means to the storage means of the computer). See Col.3: 29-30 and Col.8: 21-28.

[Claims 126 & 173]: Regarding Claims 126 & 173, Corder, as modified by Jenkins et al., discloses wherein the data report generator further comprises a user interface (e.g., a copy of the test screen) for browsing other test data for a user. See Col.12: 36-42.

[Claims 127 & 174]: Regarding Claims 127 & 174, Corder, as modified by Jenkins et al., discloses wherein the data report generator further comprises means (e.g., a bar chart) for determining the number of user test results shown. See Col.12: 36-42.

[Claims 128 & 175]: Regarding Claims 128 & 175, Corder, as modified by Jenkins et al., discloses wherein the data report generator further comprises means (i.e., LaserWriter IINT Printer) for permitting the user to select a data report print format (e.g., bar chart). See Col.12: 36-42 and FIG. 2(c).

[Claims 129 & 176]: Regarding Claims 129 & 176, Corder, as modified by Jenkins et al., discloses wherein the data report generator further comprises means for permitting the user to select a data report display format (e.g., bar chart). This would have been an inherent feature of Corder's invention. See Col.12: 36-42.

[Claims 130 & 177]: Regarding Claims 130 & 177, Corder, as modified by Jenkins et al., discloses wherein the data report generator further comprises means for generating a data report (i.e., student's performance) for one or more students in a class, means (e.g., analyze module) for generating a data report for one or more classes each having one or more students and means for generating a data report for a school having one or more classes. See Col.8: 21-27 and Col.16: 36-42.

[Claims 131 & 178]: Regarding Claims 131 & 178, Corder, as modified by Jenkins et al., discloses wherein the client computer (student workstation) further comprises a teacher station (teacher workstation) that downloads the tests from the server and one or more student computers connected to the teacher station by a network (Fig. 2(c) associated text), each student computer further comprising means for displaying at least one of a graphical image and audio associated with each test located on the server (Fig. 2(b) & column 3 lines 25-28), means for receiving a user response (e.g. voice recording device) to one of the graphical images and audio presented by each test and means for

communicating the responses for each test back to the teacher station (Figs. 2(b)-2(c) & Col. 3:28-30).

[Claims 132 & 179]: Regarding Claims 132 & 179, Corder, as modified by Jenkins et al., discloses wherein the teacher station further comprises means for communicating the response for each test for each student back to the server computer (Figs. 2(b)-2(c) & Col. 3:28-30).

[Claims 134 & 181]: Regarding Claims 134 & 181, Corder, as modified by Jenkins et al., discloses wherein each student computer further comprises means for connecting to the server computer and means for downloading the resources necessary to execute the current test when the test is started (i.e., AppleTalk or Other Network). See FIG. 2(c).

[Claims 190 & 238 & 285]: Regarding Claims 190, 238 & 285, Corder discloses Claims 189, 237 & 284. *Corder does not disclose wherein each client computer further comprises for motivating the user to complete the tests and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme).* However, Jenkins et al. teaches means for motivating the user to complete the tests (column 9 lines 21-28 & lines 43-45 & column 10 lines 44-60) and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme) (Col.3: 31-41). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to include motivating the user, as disclosed by Jenkins et al., incorporated into Corder in order to given the user to earn points, reward game play and provide an entertaining arcade environment.

All citations above can be found in the Corder reference unless otherwise noted.

5. Claims 97, 98, 144 & 145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Protopapas et al. (US 5,868,683).

[Claim 97, 98, 144 & 145]: Regarding Claims 97, 98, 144 & 145, Corder/Jenkins et al. does not disclose expressly wherein the server further comprises a questionnaire (i.e., RD-predictive acoustical test) having one or more questions (i.e., asking the user to respond whether they perceive a pair of tonal stimuli to have the same or different frequencies) for eliciting information about risk factors (e.g., difficulties in mapping a particular sound to a speech sound in the mind) associated with language-based learning disabilities and wherein the information comprises historical data about reading-related risk factors including one or more of medical conditions including chronic otitis media, family history data including history of dyslexia, environmental data including socioeconomic status and exposure to literacy at home and observational data (i.e., a person encountering difficulty in mapping a particular spoken sound to a speech sound in the mind) about an individual's behavior reflecting competencies in speech and sound awareness. However, Protopapas teaches such in Col.4: 11-24 and Col.5: 27-

36. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Protopapas in order to treat a reading deficit in a human being.

6. Claims 100 & 147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al./Jenkins et al. and further in view of Walker et al., Block et al. and Corder ('132).

[Claims 100 & 147]: Regarding Claims 100 & 147, Corder/Jenkins et al. discloses wherein the one or more tests comprise a rhyme recognition test (Col. 13:64) for testing the ability to recognize rhymes, a rhyme generation test (Col. 14:4) for testing the ability to generate rhymes, a beginning and ending sound recognizer (Col. 14:1 & 2) for testing the ability to recognize the beginning and ending sounds of a word, a sound segmenting test (Col.14: 5) for testing the ability to segment a sound unit into smaller sound units, a sequential verbal recall test (Col. 3: 31-41 of Jenkins et al.) for testing the ability to recall a sequence of spoken items and a letter naming and symbol/sound association test for testing the ability to name letters and identify the association between a symbol and an associated sound unit. *Corder/Jenkins et al. does not disclose a word decoder test for testing the ability to read by sounding out a written word, a sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items.* However, Walker et al. teaches a word decoder test for testing the ability to read by sounding out a written word (Col. 1:

49-57 & Col. 2: 5-9). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder/Jenkins et al., in light of the teaching of Walker, in order to teach reading. *Walker et al. does not disclose sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items.* However, Block et al. teaches sound blender test for testing the ability to blend sound units together to form words (Col.7: 1-9), a sound manipulator test (Col.7: 1-9) for testing the ability to manipulate sound units to form a new. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test and sound manipulator test into the method and system of Corder/Jenkins et al./Walker et al., in light of the teaching of Block, in order to help students learn how sounds blend with words. *Block et al. does not teach a rapid naming test for testing the ability to rapidly name one or more items.* However, Corder ('132) teaches a rapid naming test for testing the ability to rapidly name one or more items (Col. 20: 5-50). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al./Walker et al./Block et al., in light of the teaching of '132, in order to teach phonics.

7. Claims 105, 107, 109, 152, 154 & 156 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Block et al. (US 6,305,942).

[Claims 105 & 152]: Regarding Claims 105 & 152, Corder/Jenkins et al. does not disclose expressly wherein the tests further comprise a sound blender test comprising means for generating at least two sound stimuli and means for receiving a user response to the at least two stimuli, the response indicating an ability to blend the at least two sound stimuli into a larger sound unit. However, Block teaches such (i.e., The highlighting cursor is utilized in the video and the interactive computer display to help students learn how the sounds blend with the words ... each sound of the combination of sounds is audibly demonstrated. Next the entire word is stated for the student to repeat.). See Col.7: 1-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test into the method and system of Corder/Jenkins et al., in light of the teaching of Block, in order to help students learn how sounds blend with words.

[Claims 107 & 154]: Regarding Claims 107 & 156, Corder/Jenkins et al. does not disclose expressly wherein the tests comprise a sound manipulation test comprising means for generating a sound stimulus having one or more sound units and means, in response to the sound stimulus, for manipulating the sound units of the sound stimulus to test the ability to manipulate sound units. However, Block teaches such (i.e., Next the entire word is stated for the student to repeat. Students then read and write the words in their workbooks, so they know how to spell them). See Col.7: 1-9. The student's mouth (used to repeat) and the writing mechanism the student uses to write the words are considered to be means for manipulating sound units. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to

incorporate a sound manipulation test into the method and system of Corder/Jenkins et al., in light of the teaching of Block, in order to help students learn how sounds blend with words.

[Claims 109 & 156]: Regarding Claims 109 & 156, Corder/Jenkins et al. discloses means (i.e., voice recording device) for speaking the verbal response into the speech recognition device for receiving a verbal response from the user. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

8. Claims 110 & 157 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Corder (US 5,302,132), hereafter referred to as '132.

[Claims 110 & 157]: Regarding Claims 110 & 157, Corder/Jenkins et al. does not disclose expressly wherein the tests further comprise a naming test comprising means (i.e., first phonogram screen) for generating at least one visual stimulus (e.g., "b") and means, in response to the display of the visual stimulus, for speaking the name of or the sound associated with the visual stimulus (i.e., microphone) using the speech recognition device (i.e., voice analysis). However, '132 teaches such in Col.20: 5-50. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of '132, in order to teach phonics.

9. Claims 111 & 158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Walker (US 5,421,731).

[Claims 111 & 158]: Regarding Claims 111 & 158, Corder/Jenkins et al. does not disclose expressly a word decoder test comprising means for displaying a visual stimulus to the user and means, in response to the visual stimulus (i.e., a word), for receiving a response from the user to determine the ability to read the visual stimulus (i.e., verifying a pronunciation of a word). However, Walker teaches such in Col.1: 49-57 and Col.2: 5-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder/Jenkins et al., in light of the teaching of Walker, in order to teach reading.

10. Claims 115, 123-125, 162 & 170-172 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Truluck et al. (US 6,353,447).

[Claims 115, 123-125, 162 & 170-172]: Regarding Claims 115, 123-125, 162 & 170-172, Corder/Jenkins et al. does not disclose expressly wherein the generating means further comprises means for generating a graphical image indicating the number of tests (i.e., activities) remaining to be completed, wherein the data reports further comprises means for displaying the test results (i.e., scores) simultaneously for one or more students, wherein the displaying means further comprises means for displaying the percentage of correct responses (i.e., percentage correct) for a test, wherein the displaying means further comprises means for displaying the results for one or more different test for each user wherein the results for each test are displayed in a different color (i.e., completed activities are displayed differently (e.g., shaded or different color) from incomplete

activities). However, Truluck teaches such in FIG.6, Col.1: 48-55, and Col.5: 23-67-Col.6: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Truluck, in order to indicate a user's progress.

11. Claims 133 & 180 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Haff et al. (US 6,219,669).

[Claims 133 & 180]: Regarding Claims 133 & 180, Corder/Jenkins et al. does not disclose expressly wherein the teacher station further comprises means for detecting a break in the communication between the teacher station and the server computer and means for resending any test data that was not sent due to the communications break. However, Haff teaches such in Col.28: 14-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder/Jenkins et al., in light of the teaching of Haff, in order to resume the transmission of a file depending on what portion of the file was previously received.

12. Claims 135-138 & 182-185 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Remschel (US 6,411,796).

[Claims 135, 136, 138, 182, 183 & 185]: Regarding Claims 135, 136, 138, 182, 183 & 185, Corder/Jenkins et al. does not disclose wherein the teacher station further comprises means for generating a classroom layout showing an icon for each student

computer (i.e., an illustration of the main window of the software showing seat numbers of the student stations), wherein the teacher station further comprises means for monitoring each student's test progress and controlling each student computer (i.e., graphical user interface), wherein generating the layout further comprises means for coloring each icon depending on the state of testing for the particular student computer. However, Remschel teaches such in FIG. 7, Col.3: 19-20, Abstract, and Col.6: 12-25. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Remschel, in order to enable ease of use of the learning system.

[Claims 137 & 184]: Regarding Claims 137 & 184, Corder/Jenkins et al., as modified by Remschel, discloses wherein the teacher station further comprises means (i.e., storage means) for collecting student test data. See Col.12: 11-25, 46-50.

13. Claims 139-141 & 186-188 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Sonnenfeld (US 6,112,049).

[Claims 139-141 & 186-188]: Regarding Claims 139-141 & 186-188, Corder/Jenkins et al. does not disclose expressly wherein the teacher station further comprises means for generating one or more separate accounts, wherein the accounts include a lead teacher (e.g., test administrator) for managing the use of the diagnostic system by one or more classroom teachers in a particular school and one or more classroom teachers who each administer the diagnostic testing for a particular class of students, wherein the

teacher station further comprises means for each lead teacher to register one or more classroom teachers who administer the test and means for each classroom teacher (e.g., test designer) to register one or more students who are taking the test, wherein the lead teacher has access to testing data for the entire school and each classroom teacher has access to testing data for the students in the class of the classroom teacher. However, Sonnenfeld teaches such in Col.9: 64-65 and Col.15: 33-37, 55-57. The lead teacher and the classroom teacher are considered a part of upper management. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Sonnenfeld, in order to provide an automated testing system allowing design and administration of hierarchical testing scheme.

14. Claims 191, 192, 239, 240, 286 & 287 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Protopapas et al. (US 5,868,683).

[Claims 191, 192, 239, 240, 286 & 287]: Regarding Claims 191, 192, 239, 240, 286 & 287, Corder does not disclose expressly wherein the server further comprises a questionnaire (i.e., RD-predictive acoustical test) having one or more questions (i.e., asking the user to respond whether they perceive a pair of tonal stimuli to have the same or different frequencies) for eliciting information about risk factors (e.g., difficulties in mapping a particular sound to a speech sound in the mind) associated with language-based learning disabilities and wherein the information comprises historical data about reading-related risk factors including one or more of medical conditions including

chronic otitis media, family history data including history of dyslexia, environmental data including socioeconomic status and exposure to literacy at home and observational data (i.e., a person encountering difficulty in mapping a particular spoken sound to a speech sound in the mind) about an individual's behavior reflecting competencies in speech and sound awareness. However, Protopapas teaches such in Col.4: 11-24 and Col.5: 27-36. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of Protopapas in order to treat a reading deficit in a human being.

15. Claims 194, 242 & 289 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al. in view of Walker et al., Block et al. and Corder ('132).

[Claims 194, 242 & 289]: Regarding Claims 194, 242 & 289, Corder discloses wherein the one or more tests comprise a rhyme recognition test (Col. 13:64) for testing the ability to recognize rhymes, a rhyme generation test (Col. 14:4) for testing the ability to generate rhymes, a beginning and ending sound recognizer (Col. 14:1 & 2) for testing the ability to recognize the beginning and ending sounds of a word, a sound segmenting test (Col.14: 5) for testing the ability to segment a sound unit into smaller sound units, a sequential verbal recall test for testing the ability to recall a sequence of spoken items and a letter naming and symbol/sound association test for testing the ability to name letters and identify the association between a symbol and an associated sound unit. *Corder does not disclose a word decoder test for testing the ability to read by sounding*

out a written word, a sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items. However, Walker et al. teaches a word decoder test for testing the ability to read by sounding out a written word (Col. 1: 49-57 & Col. 2: 5-9). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder, in light of the teaching of Walker, in order to teach reading. *Walker et al. does not disclose sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items.* However, Block et al. teaches sound blender test for testing the ability to blend sound units together to form words (Col.7: 1-9), a sound manipulator test (Col.7: 1-9) for testing the ability to manipulate sound units to form a new. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test and sound manipulator test into the method and system of Corder/Walker et al., in light of the teaching of Block, in order to help students learn how sounds blend with words. *Block et al. does not teach a rapid naming test for testing the ability to rapidly name one or more items.* However, Corder ('132) teaches a rapid naming test for testing the ability to rapidly name one or more items (Col. 20: 5-50). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the

aforementioned limitations into the method and system of Corder/Walker et al./Block et al., in light of the teaching of '132, in order to teach phonics.

16. Claims 199, 201, 203, 247, 249, 251, 294, 296 & 298 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Block et al. (US 6,305,942).

[Claims 199, 247 & 294]: Regarding Claims 199, 247 & 294, Corder does not disclose expressly wherein the tests further comprise a sound blender test comprising means for generating at least two sound stimuli and means for receiving a user response to the at least two stimuli, the response indicating an ability to blend the at least two sound stimuli into a larger sound unit. However, Block teaches such (i.e., The highlighting cursor is utilized in the video and the interactive computer display to help students learn how the sounds blend with the words ... each sound of the combination of sounds is audibly demonstrated. Next the entire word is stated for the student to repeat.). See Col.7: 1-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test into the method and system of Corder, in light of the teaching of Block, in order to help students learn how sounds blend with words.

[Claims 201, 249 & 296]: Regarding Claims 201, 249 & 296, Corder does not disclose expressly wherein the tests comprise a sound manipulation test comprising means for generating a sound stimulus having one or more sound units and means, in response to the sound stimulus, for manipulating the sound units of the sound stimulus to test the ability to manipulate sound units. However, Block teaches such (i.e., Next the entire

word is stated for the student to repeat. Students then read and write the words in their workbooks, so they know how to spell them). See Col.7: 1-9. The student's mouth (used to repeat) and the writing mechanism the student uses to write the words are considered to be means for manipulating sound units. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound manipulation test into the method and system of Corder in light of the teaching of Block, in order to help students learn how sounds blend with words.

[Claims 203, 251 & 298]: Regarding Claims 203, 251 & 298, Corder discloses means (i.e., voice recording device) for speaking the verbal response into the speech recognition device for receiving a verbal response from the user. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG. 2A, component 242. Digitally recording of voice requires the recognition of speech and the digitized interpretation thereof.

17. Claims 204, 252 & 299 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Corder (US 5,302,132), hereafter referred to as '132.

[Claims 204, 252 & 299]: Regarding Claims 204, 252 & 299, Corder/Jenkins et al. does not disclose expressly wherein the tests further comprise a naming test comprising means (i.e., first phonogram screen) for generating at least one visual stimulus (e.g., "b") and means, in response to the display of the visual stimulus, for speaking the name of or the sound associated with the visual stimulus (i.e., microphone) using the speech recognition device (i.e., voice analysis). However, '132 teaches such in Col.20: 5-50. Therefore, at the time of the invention, it would have been obvious to one of ordinary

skill in the art to incorporate the aforementioned limitations into the method and system of Corder in light of the teaching of '132, in order to teach phonics.

18. Claims 205, 253 & 300 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Walker (US 5,421,731).

[Claims 205, 253 & 300]: Regarding Claims 205, 253 & 300, Corder/Jenkins et al. does not disclose expressly a word decoder test comprising means for displaying a visual stimulus to the user and means, in response to the visual stimulus (i.e., a word), for receiving a response from the user to determine the ability to read the visual stimulus (i.e., verifying a pronunciation of a word). However, Walker teaches such in Col.1: 49-57 and Col.2: 5-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder in light of the teaching of Walker, in order to teach reading.

19. Claims 209, 217-219, 257, 265-267, 304 & 312-314 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Truluck et al. (US 6,353,447).

[Claims 209, 217-219, 257, 265-267, 304 & 312-314]: Regarding Claims 209, 217-219, 257, 265-267, 304 & 312-314, Corder does not disclose expressly wherein the generating means further comprises means for generating a graphical image indicating the number of tests (i.e., activities) remaining to be completed, wherein the data reports further comprises means for displaying the test results (i.e., scores) simultaneously for one or more students, wherein the displaying means further comprises means for displaying the percentage of correct responses (i.e., percentage correct) for a test,

wherein the displaying means further comprises means for displaying the results for one or more different test for each user wherein the results for each test are displayed in a different color (i.e., completed activities are displayed differently (e.g., shaded or different color) from incomplete activities). However, Truluck teaches such in FIG.6, Col.1: 48-55, and Col.5: 23-67-Col.6: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder in light of the teaching of Truluck, in order to indicate a user's progress.

20. Claims 227, 275 & 322 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Haff et al. (US 6,219,669).

[Claims 227, 275 & 322]: Regarding Claims 227, 275 & 322, Corder/Jenkins et al. does not disclose expressly wherein the teacher station further comprises means for detecting a break in the communication between the teacher station and the server computer and means for resending any test data that was not sent due to the communications break. However, Haff teaches such in Col.28: 14-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder in light of the teaching of Haff, in order to resume the transmission of a file depending on what portion of the file was previously received.

21. Claims 229- 233, 277, 278, 280 & 324-328 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Remschel (US 6,411,796).

[Claims 229, 230, 231, 233, 277, 278, 280, 324, 325, 326 & 328]: Regarding Claims 229, 230, 231, 233, 277, 278, 280, 324, 325, 326 & 328, Corder does not disclose wherein the teacher station further comprises means for generating a classroom layout showing an icon for each student computer (i.e., an illustration of the main window of the software showing seat numbers of the student stations), wherein the teacher station further comprises means for monitoring each student's test progress and controlling each student computer (i.e., graphical user interface), wherein generating the layout further comprises means for coloring each icon depending on the state of testing for the particular student computer. However, Remschel teaches such in FIG. 7, Col.3: 19-20, Abstract, and Col.6: 12-25. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of Remschel, in order to enable ease of use of the learning system.

[Claims 232, 279, 327]: Regarding Claims 137 & 184, Corder, as modified by Remschel, discloses wherein the teacher station further comprises means (i.e., storage means) for collecting student test data. See Col.12: 11-25, 46-50.

22. Claims 234-236, 281-283 & 329-331 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Sonnenfeld (US 6,112,049).

[Claims 234-236, 281-283 & 329-331] Regarding Claims 234-236, 281-283 & 329-331, Corder does not disclose expressly wherein the teacher station further comprises means for generating one or more separate accounts, wherein the accounts include a lead teacher (e.g., test administrator) for managing the use of the diagnostic system by

one or more classroom teachers in a particular school and one or more classroom teachers who each administer the diagnostic testing for a particular class of students, wherein the teacher station further comprises means for each lead teacher to register one or more classroom teachers who administer the test and means for each classroom teacher (e.g., test designer) to register one or more students who are taking the test, wherein the lead teacher has access to testing data for the entire school and each classroom teacher has access to testing data for the students in the class of the classroom teacher. However, Sonnenfeld teaches such in Col.9: 64-65 and Col.15: 33-37, 55-57. The lead teacher and the classroom teacher are considered a part of upper management. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder in light of the teaching of Sonnenfeld, in order to provide an automated testing system allowing design and administration of hierarchical testing scheme.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Lotvin et al. (5,907,831)

  -computer apparatus and methods supporting different categories of users

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-

8774. The examiner can normally be reached on Mon. - Wed. 7-3pm & Thurs. - Fri. 7-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kyf
Kyf 3/12/2007

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